THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20307 OF 2006

27.09.2006

Between:

S.Lakshmipathi, S/o.Late Nagasayanna

… Petitioner

AND

The Divisional Engineer, Assessments/APEPDC Ltd.,
Rajahmundry, East Godavari District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20307 OF 2006

ORDER:

The petitioner is availing power supply with Service Connection No.C9647 to his shop bearing D.No.3-31-13 situated at Sri Nagar, Kakinada. The second respondent inspected the petitioner's premises on 08.1.2005, and having noticed that the petitioner is allegedly resorting to pilferage of energy, provisionally assessed the value of the pilfered energy at Rs.1,52,060/- and directed the petitioner to submit explanation before the Assessing Authority. The petitioner was issued a show cause notice on 05.2.2004 and subsequently by proceedings dated 21.3.2006, the first respondent – the Assessing Authority; estimated the value of the pilfered energy at Rs.1,95,772.52 ps., aggrieved by which, the petitioner preferred an appeal before the Chief General Manager of Andhra Pradesh Eastern Power Distribution Company Limited (APEPDCL), Visakhapatnam. The same is still pending. Therefore, the petitioner filed the instant writ petition seeking a direction to the Appellate Authority to dispose of the appeal by permitting the petitioner as per the provisions of Section 126(5) of the Electricity Act, 2003 (the Act, for brevity).

The petitioner admittedly availed the effective statutory remedy under Section 127 of the Act and, therefore, a writ petition would not lie. The submission of the learned Counsel for the petitioner that the Assessing Authority cannot calculate the value of the energy exceeding six months, as per Section 126(5) of the Act, is misconceived. The said submission does not lay down any such rule, though as per subsection (6) of Section 126 of the Act, the rate applicable while calculating the value of the pilfered energy is laid down. This Court is, therefore, of considered opinion that the petitioner should approach the Chief General Manager of APEPDCL (not a party to this writ petition) with a copy of this order. As and when the petitioner approaches the Chief General Manager, the appeal may be disposed of expeditiously in accordance with law. Except making such an observation, the writ petition cannot be entertained.

The writ petition, with the above observations, is accordingly dismissed. No costs.

_____

(**V.V.S.RAO, J**)

September 27, 2006

NOTE:

Dispatch a copy of this order to the
Chief General Manager, APEPDCL,
Visakhapatnam, today.

(By order)

YS